



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: December 29, 2015

To: Robert Best, Chairman, & Members, Planning Board

From: Robert Price, Assistant Planner

Subject: **James M. O'Neil LLS, TF Moran Inc., (applicant) and Beverly D. Hilton Revocable Trust and George L. Hilton Revocable Trust (owners)** – Review for acceptance and consideration of Final Approval of an application for a two lot subdivision. This site is located on Tinker Road in the R-1 (Residential), and Aquifer Conservation Districts. Tax Map 2C, Lot 110-01.

Background

Map 2C, Lots 110 & 110-1 are located at 22 Tinker Road (Lot 110) and across from 22 Tinker Road (Lot 110-1). Originally, both lots comprised a 2.782 acre parcel as depicted on the Tinker Woods subdivision plan (HCRD Plan #22357). Part of this plan showed the relocation of Tinker Road which was intended to correct its alignment with the "Proposed Camp Sargent Road Bypass" shown on said plan (now Continental Boulevard). The plan shows that Tinker Road was intended to be situated to the northerly side of Lot 110. Instead, when the New Hampshire Department of Transportation relocated Tinker Road, they cut through Lot 110, leaving behind two subject lots. The resulting layout was not what was originally intended and was never formalized by way of a subdivision plan thereafter.

Today, Lot 110 is comprised of 1.21 acres and is in the R (Residential) District (R-1 by soils). It is currently vacant and would be serviced by Town water and private septic. Lot 110-1 is comprised of 0.71 acres and is in the R (Residential) District (R-1 by soils). Access to this lot would be from LeBlanc Lane. This lot is also currently vacant and would be serviced by Town water and private septic.

A number of variances are required for the property owners to present a subdivision plan to the Planning Board that would formalize the creation of these lots and in turn, make them usable for single-family dwellings. The applicant intends to present these cases to the Zoning Board of Adjustment on December 30, 2015. As of the writing of this memo the ZBA's decisions are unknown, but the Planning Board will be updated during the presentation of this subdivision on January 05, 2016.

Completeness

Pending receipt of the required variances, Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow the Board to make an informed decision.

Waivers

Although none have been requested, staff recommends a sidewalk waiver per Section 4.06.1(r) of the Subdivision and Site Plan Regulations, or a determination under Section 4.07 that it is not necessary.

Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 647:44:

- Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or
- Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Recommendation

Staff recommends that the Board grant conditional final approval to the application with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:

1. The Applicant shall obtain relief from the Zoning Board of Adjustment to allow lots that do not meet the lot requirements of Section 3.02 of the Zoning Ordinance and note the specific variances granted on the plan,
2. Final plans and mylars to be signed by all property owners;
3. The Applicant shall obtain all required State permits, provide copies of the permits to the Community Development Department and note the approvals on the plan;
4. The applicant shall note all waivers granted by the Board on the plan (including Section, and date granted) as applicable;
5. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
6. The applicant shall address any forthcoming comments from the Assessing Department, as applicable;
7. The applicant shall address any forthcoming comments from the Building Department, as applicable;
8. The applicant shall address any forthcoming comments from the Fire Department, as applicable;
9. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable;
10. The applicant shall address the following comments from the Public Works Department:
 - a. Per subdivision reg 4.17 paragraph f, all frontage bounds shall be concrete or granite, with minimum dimensions of 4" x 4" x 3'. The bounds should protrude above the finished ground surface 4 in. if in land to be mowed, 6 in. if in land not under cultivation, or 12 in. if in woodland.

- b. The plan should be updated to show concrete or granite bounds instead of iron pins.
 - c. A right of way permit will need to be obtained from the Highway Division for the proposed waterline crossing Tinker Road.
11. The applicant shall address any forthcoming comments from the Conservation Commission as applicable;
12. The applicant shall address the following Planning Staff Technical Comments:
- a. Applicant to revise Note 4 to indicate that the subject parcels are located in the R (Residential) District and also the Aquifer Conservation District.
 - b. Applicant to add the 25' wetland buffer per the requirements of Section 2.02.7 (b) of the Zoning Ordinance (the 40' wetland setback is shown, but the buffer is missing);
 - c. Applicant to add a note to the plan indicating that the plan is to be recorded at HCRD and that a copy is on file with the Community Development Department;
 - d. Applicant to add a note indicating that prior to disturbance or issuance of a building permit a stormwater management plan shall be submitted to the Community Development Department for any tracts of land resulting in a total disturbance of 20,000 or more s.f. of land, per Chapter 167 of the Merrimack Town Code.

Staff also recommends that the following general and subsequent conditions be placed on the approval:

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
3. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways.

Cc: Beverly D. Hilton Revocable Trust (owner)
George L. Hilton Revocable Trust (owner)
Planning Board File
Correspondence

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